

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

IN RE:

EX PARTE APPLICATION PURSUANT TO 28
U.S.C. § 1782 FOR LEAVE TO TAKE
DISCOVERY FOR USE IN A FOREIGN
PROCEEDING,

Applicant.

Case No. 20 mc. ____

***EX PARTE* APPLICATION PURSUANT TO 28 U.S.C. § 1782 FOR LEAVE TO TAKE
DISCOVERY FOR USE IN A FOREIGN PROCEEDING**

Based upon the concurrently filed Memorandum of Law, Declarations of Duane L. Loft and Pieter Jan van der Korst, and supporting documents, Winterbrook Capital Limited (“Winterbrook”) respectfully applies to this Court for an Order, pursuant to 28 U.S.C. § 1782, and Federal Rules of Civil procedure 26, 30, and 45, granting it leave to serve Respondents Lazard Group LLC, Lazard Ltd., LionTree LLC, LionTree Advisors LLC, and Dexter Goei with subpoenas in substantially the same form as those attached as Exhibits 20 through 24 to the Declaration of Duane L. Loft for the production of documents and deposition testimony for use in a Dutch proceeding.

Winterbrook’s application meets the requirements of Section 1782. The subpoena recipients are “found” within this district, the narrow discovery Winterbrook requests is “for use” in contemplated proceedings before a foreign tribunal, and Winterbrook, as a party to the foreign proceedings, is an “interested person.” The factors set forth by the United States Supreme Court in *Intel Corp. v. Advanced Micro Devices, Inc.*, 542 U.S. 241 (2004), also weigh in favor of ENRC’s limited discovery requests: (1) Respondents will not be parties or participants in the foreign proceedings; (2) Dutch courts are receptive to discovery obtained pursuant to Section 1782; (3) obtaining discovery through Section 1782 would not circumvent any proof-gathering

restrictions; and (4) the subpoenas are narrowly tailored to avoid unnecessary burden on the Respondents.

Winterbrook, therefore, respectfully requests that this Court enter an Order granting Winterbrook's application.

Respectfully submitted,

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